

**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Sorin Faibish, et al.

Serial No.: 09/893,825      Confirm: 5261

Filed: 06/28/2001

For:    Video File Server Cache Management  
         Using Movie Ratings for Reservation of  
         Memory and Bandwidth Resources

Technology Center: 2600

Group Art Unit: 2623

Examiner:    Parry, Christopher L.

Atty. Dkt. No.:    10830.0080.NPUS00

**REPLY BRIEF TO THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

Sir:

This Reply Brief is in reply to the Examiner's Answer mailed Jan. 24, 2007. This Reply Brief is intended to address only new evidence and new argument in the Examiner's Answer.

1. New Evidence

The Examiner's Answer includes, as evidence relied upon, a copy of Merriam-Webster's 10<sup>th</sup> edition Collegiate Dictionary 1998 pages 242 and 967. The Examiner's Answer, page 19, refers to this new evidence for the definition of rank (verb) as "to determine the relative position of" in support of an argument that "Armstrong discloses ranking or determining the relative position of the movies based on which movies are frequently requested and which movies are infrequently requested." However, in the appellants' claims, there are more than just two movies, so this new evidence is not inconsistent with the appellants' evidence that "rank" means "to arrange in a series in ascending or descending order of importance." More importantly, the

Examiner's new evidence is not pertinent to the appellants' argument on page 19 of appellants' Brief that: "The process defined in appellants' independent claims is not simply giving precedence or more resources to more popular movies than less popular movies. The process includes ranking the movies with respect to popularity, assigning a respective set of the data movers for servicing video streams for each movie ranking, and configuring the data movers in the respective sets of data movers differently for providing more network interface resources for very popular movies and for providing more local cache memory resources for less popular movies."

The Examiner's Answer, page 20, cites the new evidence for defining "configure" as "to set up for operation esp. (especially) in a particular way." However, this definition is not inconsistent with the appellants' view that configuring the data movers should not be confused with the normal operation of a cache memory when a client selects an available movie and in response a video stream of the movie is returned from the cache memory to the client.

## 2. New Argument

The Examiner's Answer, page 20, includes a new argument that: "The term 'network interface resource' may be interpreted very broadly and can be interpreted to be a memory device as every memory is a network resource." Appellants disagree, because such an interpretation totally disregards the word "interface." In support of this argument, the Examiner's Answer confuses the words "memory resources" with the words "network interface resources." For example, page 20 of the Examiner's Answer mischaracterizes the Appellants'

argument on page 20 of Appellants' Brief. Appellants never argued that the popular movie is stored on network interface resource. At the very bottom of page 21, with reference to the language of appellants' independent claims, the Examiner's Answer substitutes the words "memory resources" for "network interface resources." However, it is clear from the appellants' claim language that "network interface resources" are different from "local cache memory resources." For example, during prosecution, the Examiner construed the "configuring" limitation to mean "the respective sets of data movers are configured differently by having fewer cache memory resources and more network interface resources in the data movers that service more popular movies than in the data movers that service less popular movies." (See Appellants' claims 27 to 30, which were objected to on page 6 of the Final Official Action dated May 3, 2006 for failing to further limit the subject matter of Appellants' independent claims 2, 12, 16, and 26.) Now that prosecution is closed, "network interface resources" should not be construed so broadly as to render the claim limitation meaningless.

Respectfully submitted,

*/ Richard C. Auchterlonie /*

Richard C. Auchterlonie  
Reg. No. 30,607

NOVAK DRUCE & QUIGG, LLP  
1000 Louisiana, 53<sup>rd</sup> Floor  
Houston, TX 77002  
713-571-0655